

**REMARKS**

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

**Rejection of Claims 1-7, 24-33 and 35-41 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 1-7, 24-33 and 35-41 under 35 U.S.C. §103(a) as being unpatentable over Li (U.S. Patent No. 6,275,531) ("Li") in view of Chiu et al. (U.S. Patent No. 6,233,283) ("Chiu et al.") and Masaki et al. (U.S. Patent No. 6,356,309) ("Masaki et al."). Applicants traverse this rejection and respectfully submit that one of skill in the art would not have sufficient motivation or suggestion to combine Li with Chiu et al. and Masaki et al, and furthermore, even if combined these references fail to teach each claim limitation.

Applicants have studied the Examiner's response to arguments on page 2 of the outstanding Office Action. However, Applicants have found no responsive argument explaining why one of skill in the art would actually have more motivation to combine these references rather than motivation against such combination. For example, in the previous Office Action, the Applicants explained how Li discloses an encoding method using a base layer and an enhancement layer. Similarly, Chiu et al. teach a layer video coding method and Applicants argued that the approach in Masaki et al. was outdated and thus, one of skill in the art would recognize that at the time of the invention there was a more advanced method of layering the bitstream and would not have motivation to go back to an older method of seeking to efficiently use the bandwidth that is taught in Masaki et al. In response, rather than analyzing the references for their suggestive power within the context of whether one of skill in the art would have sufficient motivation or suggestion to combine these references, the Examiner has simply highlighted the teachings of Li and how Li teaches a system and method of encoding and transmitting encoded data, as well as discussing how Chiu et al. disclose a system for encoding

and transmitting video data. After picking several teachings of each reference, the Examiner simply states "therefore" it would be obvious to combine Chiu et al. with Li.

Next, the Examiner simply states that Masaki et al. also teach a system and method for encoding and transmitting encoded data. After referencing the teachings of Masaki et al. regarding the quantization step size, the Examiner simply concludes "therefore" it would be obvious to modify Li in view of Chiu et al. with the teachings of Masaki et al. so that a moving picture with smooth movement can be displayed on the receiving side. Applicants simply note that the Examiner has ignored our entire argument regarding the suggestive power of each of the references. In other words, the MPEP requires the Examiner to address our arguments with regards to the overall teaching and suggestive power of each reference. The Examiner has ignored this requirement and not addressed our argument that one of skill in the art would recognize that the disclosure of Masaki et al. that relates to quantization control has been replaced by a more popular use of a base layer and enhancement layer as the video compression standards evolve. Applicants submit that this is a fundamental problem with the Examiner's analysis and that rather than reviewing the entire disclosure of each reference for the overall suggestive power to one of skill in the art, the Examiner is unfortunately using hindsight and picking and choosing pieces of information from each reference and cobbling them together in order to maintain his rejection. Accordingly, Applicants respectfully request either a Notice of Allowance or a non-final Office Action in which our arguments are addressed with regards to whether one of skill in the art would have motivation to combine these references. At this stage, Applicants respectfully that the evidence on the record with regards to the overall suggestive power of each of the references is in Applicants favor and against there being sufficient motivation to combine the references.

Applicants further note that even if combined, the combination of references fails to teach each limitation of the claims. Applicants respectfully assert that a fundamental technical shift has occurred throughout the Examiner's arguments such that the Examiner is now asserting that Masaki et al. teach the exact opposite from what the actual disclosure of Masaki et al. is. For example, on page 4, second paragraph, of the outstanding Office Action, after citing columns 67 and 68, the Examiner states "thus, Masaki teaches additional **high priority** [sic] are encoded as lower quality than is generally used for high priority frames." (emphasis added).

On page 5 of the outstanding Office Action, the Examiner states "The Final Office Action then indicates Masaki discloses the **teaching** of the additional high priority are encoded as lower quality than is generally used for high priority frames." (emphasis in original) The Office Action uses the "teachings of the additional high priority are encoded as lower quality than is generally used for high priority frames as taught by Masaki" as the fundamental reason that one of ordinary skill in the art would blend the teachings of Masaki et al. with the teachings of Li and Chiu et al.

Next, Applicants note that in the Advisory Action, second paragraph, the Examiner states "The Final Office Action then indicated Masaki discloses the teaching of the additional **high priority** are encoded as lower quality than is generally used for high priority frames." (emphasis added) Applicants vigorously traverse this analysis and note that the actual teachings of the Final Office Action do not teach that additional **high priority** frames are encoded at a lower quality than is generally used for high priority frames. The Final Office Action does not make such assertion either. On page 4 of the Final Office Action, the Examiner states the following:

"Masaki further teaches in response to receiving the error rate larger than threshold, the quantization step for **non-priority** area is set larger (see including, but is not limited to, col. 67, lines 10-35; col. 68, lines 25-39). As a result of setting the size of quantization step larger, the frames to be encoded are encoded as a lower quality (e.g. coarse) than is generally used for the frames to be encoded." (emphasis added)

Accordingly, Applicants respectfully submit that while the Examiner is citing at the Final Office for support that Masaki et al. teaches that the "high priority" frames are encoded at a lower quality than is generally used for high priority frames, the Final Office Action does not bear out such an interpretation. Furthermore, the issue is not necessarily what the Final Office Action said or didn't say, but rather what Masaki et al. actually teach. Column 67, lines 10-35, teach the following:

"Now, the video receiving device 1000 connected by wire or radio to the video coding device 60 has a function of calculating the error rate of received video data and also has a function of sending an error signal to the video transmission device if the calculated error rate is larger than a predetermined threshold. In the description of operation below, it is assumed that the error rate of video data is larger than the predetermined threshold.

In the above case, the video receiving device 1000 outputs the error signal to the video coding device 60. Receiving the error signal, the transmission control portion 172 in the video coding device 60 outputs an error notice indicating the receipt of the error signal to the quantization control device 41 and the frame dropping/quantization control device 42. Receiving the error notice, the quantization control device 41 makes a state transition from the error free mode to the error mode and performs the same quantization control as in the error mode in the second embodiment. Furthermore, the quantization control device 41 switches the connection of the third SW 613 so that the devices 1-3 are connected. Accordingly, the video frame inputted from the video input portion 11 is quantized with a quantization step size with a quantization step size larger than in the error free mode and provided with an error correcting code with high error correcting capability in the second error correction coding portion 612 and then outputted to the video receiving device 1000."

Column 68, lines 25-39 teach:

"In the quantization control device 41, the video frame may be divided into a priority area in which an object will be displayed and a non-priority area in which a background will be displayed with a new function provided for setting the quantization step size for each area. In this case, in the error mode, the quantization step size for the non-priority area is set to a quantization step size with a quantization step size larger than that of the quantization step size determined in the third quantization control portion 412 and sent to the coding device 12. Furthermore, in the error mode, for the non-priority area, the coding device 12 may be controlled not to perform coding operation and transmission operation, or the high-frequency components of the input video may be eliminated with a prefilter, or low-frequency components of the DCT coefficient only may be coded." (emphasis added)

Applicants respectfully submit that what the scope of what is taught in Masaki et al. does not include a teaching that additional high priority frames are encoded at a lower quality than is generally used for high priority frames. Applicants submit that Masaki et al. actually teach the opposite. For example, in column 67 there is a general teaching where it appears that if the video frame is not divided such that there is a priority area and a non-priority area that the video frame is quantized with a quantization step size that is larger than in the error free mode. In other words, column 67 teaches that the entire frame is quantized with a quantization step size that is larger than normal. Then, column 68 teaches if the video frame is divided into a priority area and a non-priority area, then in the error mode the non-priority area is quantized with the quantization step size that is larger than the normal quantization step size. The actual teachings of Masaki et al. directly oppose the characterization of those teachings that are found in the Advisory Action and in the current outstanding Office Action. Applicants respectfully request a correction of the Examiner's interpretation of what is taught by Masaki et al. and furthermore, request either a Notice of Allowance or a non-final Office Action in which the analysis is revised to take into consideration the proper scope of the teachings of Masaki et al.

Applicants again urge that even if these references are combined, based on the discussion of the proper scope of the teachings of Masaki et al., that the combination of these references fails to teach each limitation of the claims. For example, claim 1 teaches that if more than a threshold amount of low priority frames are being lost, the method comprises encoding an additional number of low priority frames as high priority frames, wherein the high priority frames are encoded at a lower quality than is generally used for high priority frames. Inasmuch as it has been established above that Masaki et al. in fact teach away from this approach by only teaching that the non-priority frames, as is taught in column 68, are, in the error mode, quantized

at a step size that is larger than the quantization step size determined in the third quantization control portion 412, that they appear to teach away from the invention of claim 1.

Accordingly, for at least the reasons set forth above, Applicants respectfully submit that claim 1 is patentable and in condition for allowance.

Claims 2-7 each depend from claim 1 and recite further limitations therefrom. Applicants respectfully submit that these claims are patentable as well.

Claim 24 recites a method of transmitting video coded information from an encoder over a network. This claim includes a similar limitation of that discussed above, wherein additional high priority frames are encoded at a lower quality than is generally used for high priority frames. Applicants submit that inasmuch as one of skill in the art would not have sufficient motivation or suggestion to combine these references and furthermore, even if combined, because of the Examiner's mischaracterization of the teachings of the prior art and as well as the actual scope of what the prior art teaches. Applicants submit that this combination of references fail to teach claim 24.

Claims 25-33 each depend from claim 24 and recite further limitations therefrom. Accordingly, Applicants submit that these claims are patentable as well. Claims 35-41 are patentable for the same reason as those set forth above.

**Rejection of Claims 8, 34 and 42 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 8, 34 and 42 under 35 U.S.C. §103(a) as being unpatentable over Li in view of Chiu et al. and Masaki et al. and further in view of Zhang et al. (U.S. Patent No. 6,816,194) ("Zhang et al."). Applicants respectfully traverse this rejection and submit that one of skill in the art would not have sufficient motivation or suggestion to combine these references. Furthermore, even if combined, each of these claims depend on an allowable

parent claim and as has been discussed above, includes a limitation that Masaki et al. teach away from.

Claims 8, 34 and 42 are patentable based on the analysis above that one of skill in the art would not have sufficient motivation or suggestion to combine Li with Chiu et al. and Masaki et al. Furthermore, Applicants submit that since Zhang et al. teach a scalable layered video scheme, Applicant submit that one of skill in the art would not be motivated to combine Zhang et al.'s scalable layered video scheme with the teachings of Masaki et al. which do not relate or teach a layered scheme, but rather teach the outdated H.261 scheme. Accordingly, for this reasons as well as the reasons set forth above, Applicants submit that claims 8, 34 and 42 are patentable and in condition for allowance.

**CONCLUSION**

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Law Office of Thomas M. Isaacs, LLC, Account No. 50-2960** for any deficiency or overpayment.

Respectfully submitted,

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By: 

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